IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6750 of 2007()

CRLMC.763/2007 of DISTRICT COURT, MANJERI
CRIME NO.1118/07 OF TIRUR POLICE STATION

.....

: PETITIONER/ACCUSED

K.P.HUSSAIN, S/O.KUNHEEN,
KAVUMPURATH HOUSE, TANUR POST,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6750 of 2007

Dated this the 6th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime initially registered under Sections 279, 337, 304 and 308 I.P.C. The crux of the allegations against the petitioner is that he, as the driver of a stage carriage vehicle, had driven the vehicle in such a rash and negligent manner with culpable and contumacious intent and had caused injuries to 3 persons, one of whom succumbed to the injury suffered by him. Investigation has made much progress. The learned Public Prosecutor submits that at the moment, there is allegation only under Sections 279 and 308 I.P.C.

2. The learned counsel for the petitioner submits that vexatious allegations are being raised under Section 308 I.P.C only to ensure that the petitioner continues in custody for as long a period as possible. Admittedly there is no prior motive at all. The allegation under Section 308 I.P.C, in these circumstances, imposed is unjustified. At worst only an offence under Section 304 A I.P.C can be said to be revealed. The petitioner may be granted anticipatory bail. The allegation under Section 308 I.P.C has no legs to stand on, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the application. The learned Public Prosecutor only submits that appropriate conditions may be imposed.

4. I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 13.11.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 14.11.2007 and 15.11.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 13.11.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 13.11.07.

(R.BASANT, JUDGE)

rtr/-